

**LOCAL EDUCATION AGENCY/COMMERCIAL VENDOR
CONTRACT TEMPLATE**

**School Nutrition Programs
VENDOR CONTRACT
Between**

Local Education Agency:	Name of Commercial Vendor:
Agreement Number:	
Address:	Address:
Contact Person:	Contact Person:
Phone:	Phone:
Fax:	Fax:
Email:	Email:

I. Purpose and Term

The purpose of this contract is for the Local Education Agency (the "LEA") to obtain vended meals. Vendor will provide the meals/meal components only, generally bulk, pre-packaged or pre-plated. Vendor will not provide employees to serve or prepare meals onsite or to manage any aspect of the food service. (NOTE: If Vendor's employees are responsible for the management of the program and/or for the final preparation of meals and/or for the serving of bulk, pre-packaged or pre-plated meals, Vendor is acting in the capacity of a food service management company and this contract is no longer valid).

The LEA hereby agrees to purchase from Vendor, and Vendor hereby agrees to provide to the LEA, the lunches, breakfasts, afterschool snacks, and dinners as indicated in Section III below (collectively referred to in this contract as the "vended meals"), as part of the respective United States Department of Agriculture ("USDA") School Nutrition Programs, all in accordance with the terms of this contract and applicable federal and state regulations.

Vendor will provide the vended meals to the LEA school sites listed on the attached **Schedule A**. The LEA will give Vendor ____ days' advance written notice of any change to the sites or other information listed on **Schedule A**.

This contract is effective for the period commencing _____, 20__ and ending _____, 20__, unless terminated earlier as provided herein.

If the original length of this contract is more than twelve (12) months and less than three (3) years, the contract may be renewed for one two-year or two one-year extensions subject to the terms of N.J.S.A. 18A:18A-42. At no point in time may this contract be renewed or extended beyond a term of five (5) consecutive years. All contract renewals will be subject to the availability and annual appropriation of sufficient funds required to meet the extended obligation. If funds are not available, the LEA shall have the right to terminate the renewal, as provided herein. All contract renewals shall be in writing.

This contract may be renewed by mutual agreement of the LEA and Vendor subject to the following limitations:

- Each renewal shall be awarded by a resolution from the LEA upon a finding that the services are being performed by Vendor in an effective and efficient manner;
- The contract shall not be renewed or extended if it will cause the term of agreement to run for more than a total of five (5) consecutive years;
- Any price change included as part of a renewal shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or renewal and shall not exceed the change in

the Index Rate (as defined in the Public School Contracts Law, N.J.S.A. 18A:18A-2) for the twelve (12) months preceding the most recent quarterly calculation available at the time the contract is renewed; and

d. The terms and conditions of the contract shall remain substantially the same.

(N.J.S.A. 18A:18A-42)

II. School Calendar

Vendor will provide the vended meals daily, Monday through Friday, on days when schools are in session according to the LEA's school year calendar attached as **Schedule B**. The LEA will not be responsible for receiving or paying for vended meals (i) on days when schools are closed, as shown on the LEA's school year calendar; (ii) on any planned non-serving day that is not shown on the LEA's school year calendar, provided the LEA notifies Vendor (by phone/email/fax) at least _____ in advance of such date; and (iii) on days when schools are closed due to inclement weather.

III. Meal Requirements

Under this contract, Vendor will provide (LEA – *MUST check all that apply*):

- ☐ Lunches meeting National School Lunch Program requirements set forth in 7 CFR Section 210.10.
- ☐ Breakfasts meeting School Breakfast Program requirements set forth in 7 CFR Section 220.8.
- ☐ Afterschool snacks meeting Afterschool Care Snacks requirements set forth in 7 CFR Section 210.10.
- ☐ At-Risk Afterschool Meals Program ("Dinner") meeting Child and Adult Care Food Program requirements set forth in 7 CFR Section 226.20.
- ☐ Entrée only- **All** other meal components provided by LEA.

All vended meals will conform to the current applicable meal pattern requirements set forth by federal regulations.

IV. Milk

(LEA – *MUST check one*)

☐ All vended meals supplied by Vendor will **include milk**. For all purchases of fresh milk for the LEA vended meals, Vendor shall purchase an amount of fresh milk from New Jersey producers at least equal to the amount of fresh milk proposed to be furnished to the LEA, in accordance with N.J.S.A. 18A:18A-6 and N.J.A.C. 2:55-1.1 *et seq.*

-OR-

☐ Vendor will supply all vended meals **without milk**, which the LEA will purchase separately.

-OR-

☐ Not Applicable. Vendor will supply the entrée only.

V. Menus

Vendor will initially supply vended meals in accordance with the cycle menu that was included in the bid or proposal that Vendor submitted to the LEA for the award of this contract.

(LEA- *MUST check one*)

Thereafter,

☐ Vendor will provide the LEA with subsequent menus prepared on a [weekly] [bi-weekly] [monthly] basis at least _____ in advance of their effective dates.

-OR-

☐ The LEA will develop a subsequent menu and provide it to Vendor.

VI. Substitutions

In the event of a one-day school closing due to inclement weather or an emergency, Vendor may choose to provide that day's scheduled meal on the next day. Additionally, Vendor may choose to provide a substitution to a meal component as long as Vendor first notifies the LEA of the substitution. All substitutions shall meet all meal pattern requirements.

VII. Orders

(LEA – *MUST check one*)

☐ The LEA will order vended meals on a _____ basis. Vendor will be notified by [phone/email/fax] on _____
(Time period)
each _____ of the numbers of each type of vended meal needed for each day of the following week.
(Day of the week)

-OR-

☐ The LEA will order vended meals on a daily basis. Vendor will be notified by [phone/email/fax] not later than _____
_____ of the numbers of each type of vended meal needed for [that day] [the following day].
(Time of day)

The LEA may increase or decrease the number of each type of vended meal ordered for any day by up to _____ vended meals by notifying Vendor by [phone/email/fax] not later than _____ on the [scheduled delivery date] [day before the scheduled delivery date] or _____.

VIII. Packaging

(LEA – *MUST check one or both, if applicable*)

☐ Vendor will provide all vended meals as individual, unitized meals packaged in sealed, leak-proof containers suitable for transport.

-AND/OR-

☐ Vendor will provide vended meals in bulk quantities, accompanied by written instructions listing the planned portion size to be served of each food component in order to meet the applicable meal pattern requirements.

All vended meals supplied by Vendor will include the following:

(LEA – *MUST check all that apply*)

- ☐ Eating utensils
- ☐ Condiments
- ☐ Paper goods
- ☐ Serving utensils
- ☐ Steam Table Pans
- ☐ Disposable Meal Trays
- ☐ Other (specify): _____

IX. Delivery

(LEA – *MUST check one*)

☐ Not later than _____ each day, Vendor will deliver vended meals in separate, suitable transport cartons for each meal type to each LEA vended site indicated on **Schedule A**. Vended meals should not be delivered before _____. Vendor will be responsible for the condition and care of vended meals, including maintaining the proper temperature of meal components, until the LEA accepts delivery. Vendor will prepare a daily delivery slip

for each LEA vended site. An authorized LEA representative will count and verify all vended meals upon receipt at each LEA vended site and note any discrepancies on the daily delivery slip.

-OR-

☐ Vendor will package vended meals in separate, suitable transport cartons for each meal type to be picked up by the LEA not later than _____ each day. Vendor will be responsible for the condition and care of vended meals, including maintaining the proper temperature of meal components, until picked up by the LEA. Vendor will prepare a daily delivery slip and an authorized LEA representative will count and verify all vended meals at pick up and note any discrepancies on the daily delivery slip.

-OR-

☐ Vendor will deliver bulk quantities of frozen meals/meal components every _____. Vendor will be responsible for the condition and care of vended meals, including maintaining the proper temperature of meal components, until received by the LEA. Vendor will prepare a dated delivery slip and an authorized LEA representative will count and verify all vended meals/meal components at the time of delivery and note any discrepancies on the dated delivery slip.

X. Charges and Billing

The LEA will pay the following charges for vended meals that meet the School Nutrition Programs requirements and that are provided in accordance with this contract:

	Unit Price Per Meal/Snack		<i>ANNUAL</i> Estimated Number of Meals/Snacks <small>(ESTIMATED # OF DAILY MEALS x # OF SERVING DAYS)</small>		<i>ANNUAL</i> Estimated Cost
Breakfast:					
Price 1:	\$ _____	x	_____	=	\$ _____
Price 2:	\$ _____	x	_____	=	\$ _____
(If applicable)					
Lunch :					
Elementary:	\$ _____	x	_____	=	\$ _____
Middle:	\$ _____	x	_____	=	\$ _____
High:	\$ _____	x	_____	=	\$ _____
Snack:					
	\$ _____	x	_____	=	\$ _____
Dinner:					
	\$ _____	x	_____	=	\$ _____

TOTAL COST: \$ _____

Vendor will submit a written invoice to the LEA at the beginning of each calendar month listing the numbers and types of vended meals provided on each day of the preceding month, the monthly total for each type of vended meal provided, and their respective unit prices. The invoice shall also list any other food or supplies delivered to the LEA by Vendor. The LEA will make payment to Vendor within _____ days.

Where applicable, in each of its invoices, Vendor will credit by disclosure the LEA for the value of all donated foods received in the preceding month. In addition, Vendor will monitor and report the commodity pass through used by each commodity processor receiving any portion of the LEA entitlement dollars.

The LEA will not pay for vended meals that are spoiled or unwholesome at the time of delivery or that otherwise fail to meet the terms of this contract.

XI. Health and Sanitation

Vendor will maintain applicable state and local health certifications for all facilities in which meals are prepared for the LEA. All food will be properly stored, prepared, packaged and transported free of contamination and at appropriate temperatures.

Vendor will follow applicable Hazard Analysis Critical Control Point (“HACCP”) procedures in the preparation and delivery of vended meals for the LEA.

XII. Recordkeeping and Availability of Records

A. Vendor will keep and maintain all HACCP food safety records, including HACCP process, and time and temperature monitoring.

B. Production Records: (LEA – *MUST check one*)

☐ Vendor will provide daily production records. Vendor will complete all applicable sections. The LEA will be responsible for completing sections pertaining to HACCP and meal service on site.

-OR-

☐ The LEA will complete daily production records. Vendor must provide all of the information required for the LEA to complete the records.

C. Vendor will provide records relating to vended meals as needed, including but not limited to, the following: recipes, nutrition fact labels, manufacturer product formulation statements and/or child nutrition (CN) labels for all menu items served as a part of the reimbursable vended meals.

D. Vendor agrees to grant representatives of the LEA, the New Jersey Department of Agriculture, USDA, and the U.S. General Accounting Office access to any of its books, documents, papers and records directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions. Vendor will retain all required records for a period of three (3) years after the LEA makes final payment under this contract and all other pending matters are closed.

XIII. Additional Vendor Responsibilities

Vendor agrees to comply with the following regulatory requirements, if applicable:

A. The Contract Work Hours and Safety Standards Act, as supplemented by U.S. Department of Labor regulations, 29 CFR Part 5 [contracts in excess of \$100,000 which involve employment of mechanics or laborers].

B. The Clean Air Act (42 USC section 7401 *et seq.*), the Clean Water Act (33 USC section 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR) [contracts in excess of \$100,000].

C. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

D. All applicable certification requirements under 31 USC section 1352, and the Byrd Anti-Lobbying Amendment 45 CFR section 2543.87 [contracts in excess of \$100,000], guaranteeing that it has not used federal funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, in connection with obtaining the contract, grant or any other award.

E. Affirmative steps to assure that small and minority firms, women’s business enterprises, and labor surplus area firms are used when possible as a source of suppliers in accordance with 7 CFR Part 3016 or 7 CFR Part 3019.

F. All applicable Equal Employment Opportunity regulations and orders under 41 CFR Part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, and Executive Order

11246, as amended by Executive Order 11375, amending Executive Order 11246 relating to Equal Employment Opportunity.

- G. The Buy American Act, 41 U.S.C. section 8301 *et seq.*, requiring the purchase of only products that are produced in the United States, whenever possible.

XIV. Nonperformance or Noncompliance

In the event of Vendor's nonperformance under this contract and/or its violation or breach of the contract terms, including liability for payment of fiscal action resulting from federal and/or state reviews or audits, the LEA shall have the right to pursue all administrative, contractual, and legal remedies against Vendor and shall have the right to seek all sanctions and penalties as may be appropriate. Any Vendor liability, where found, will extend beyond the term of the contract.

XV. Termination

The LEA or Vendor may cancel this contract for cause by giving sixty (60) days' written notification to the other party, including instances when Vendor is taken over by another entity or Vendor is sold to another entity.

The LEA or Vendor may terminate this contract at any time if it is prevented or delayed from fulfilling the terms of the contract due to war, strike, fire, flood, act of God, or any act not within its control and which, by the exercise of due diligence, it was unable to prevent. In such event, the LEA or Vendor, as the case may be, shall give written notice to the other party setting forth the reason for and the effective date of termination. Neither party shall be liable for any loss or penalty upon such termination, except that the LEA shall pay Vendor for vended meals delivered in accordance with this contract prior to the termination date.

XVI. Political Contribution Disclosure [all contracts in the amount of \$17,500 or greater]

Included in the bid/proposal submitted to the LEA for award of this contract, Vendor signed and submitted a Political Contribution Disclosure Form listing the information set forth in N.J.S.A. 19:44A-20.26. During the term of this contract, Vendor and any person or business entity having an interest in Vendor, shall not make any contribution reportable under N.J.S.A. 19:44A-1 *et seq.* to any member of the board of education of the LEA.

XVII. Debarment / Suspension Certificate

Included in the bid/proposal submitted to the LEA for award of this contract, Vendor signed and submitted a Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion in accordance with 7 CFR Part 3017 and Executive Orders 12549 and 12689 regarding debarment and suspension. Vendor shall provide immediate written notice to the LEA if it learns that its certification was erroneous when submitted or has become erroneous due to changed circumstances.

XVIII. Certificate of Independent Price Determination

Prior to entering into this contract, the LEA and Vendor executed a Certificate of Independent Price Determination, certifying that the prices in the offer have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition. The Certificate of Independent Price Determination shall be kept on file with the signed contract at the LEA.

XIX. Certification Regarding Lobbying

Included in the bid/proposal submitted to the LEA for award of this contract, Vendor signed and submitted a Certification Regarding Lobbying and, if applicable, a Standard Form LLL – Disclosure of Lobbying Activities. During the term of this contract, Vendor shall file with the LEA a Standard Form LLL – Disclosure of Lobbying Activities at the end of each calendar quarter in which any event occurs that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously submitted by Vendor.

XX. Disclosure of Investment Activities in Iran

Included in its response to the LEA's specifications and before entering into this contract, Vendor signed and submitted a Disclosure of Investment Activities in Iran, pursuant to N.J.S.A. 18A:18A-49.4, which requires the LEA to implement and comply with the provisions of P.L. 2012, c. 25 (N.J.S.A. 52-32-55, *et. seq.*). P.L. 2012, c. 25 requires all bidders to complete a certification that attests that neither the bidder, nor any of its parents, subsidiaries and/or affiliates is listed on

the list developed by the New Jersey Department of Treasury’s List of Persons or Entities Engaging in Prohibited Investment Activities in Iran, pursuant to section 3 of P.L.2012, c. 25 (N.J.S.A. 52:32-57).

XX1. Construction and Effect

The LEA and Vendor agree that this contract is intended to comply with applicable federal, state and local procurement and program requirements. In the event that any provision contained in the contract should conflict with any attachment to this contract, the provisions of the contract shall control.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed by their duly authorized representatives as of the dates set forth below.

LEA Authorized Representative Signature:
Signature: _____
Title: _____
Date: _____

Vendor Authorized Representative Signature:
Signature: _____
Title: _____
Date: _____

SCHEDULE A

LEA SCHOOLS RECEIVING VENDED MEALS *Attach additional pages if needed*

School Name & Address	School Type	Vended Meals Provided
	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High School	<input type="checkbox"/> Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/> Afterschool Snack <input type="checkbox"/> Dinner
	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High School	<input type="checkbox"/> Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/> Afterschool Snack <input type="checkbox"/> Dinner
	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High School	<input type="checkbox"/> Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/> Afterschool Snack <input type="checkbox"/> Dinner
	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High School	<input type="checkbox"/> Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/> Afterschool Snack <input type="checkbox"/> Dinner
	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High School	<input type="checkbox"/> Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/> Afterschool Snack <input type="checkbox"/> Dinner
	<input type="checkbox"/> Elementary <input type="checkbox"/> Middle <input type="checkbox"/> High School	<input type="checkbox"/> Breakfast <input type="checkbox"/> Lunch <input type="checkbox"/> Afterschool Snack <input type="checkbox"/> Dinner

SCHEDULE B

[Insert LEA School Year Calendar]